

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AMERICAN FEDERATION OF )  
STATE, COUNTY AND MUNICIPAL )  
EMPLOYEES, LOCAL 77, )

Plaintiff, )

v. )

DUKE UNIVERSITY, )

Defendant. )

1:18CV228

**ORDER**

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on September 6, 2019, was served on the parties in this action. (ECF Nos. 25, 26.) Plaintiff filed objections to the Magistrate Judge's Recommendation, (*See* ECF No. 27), to which Defendant responded, (*See* ECF No. 28). The Court has appropriately reviewed the Magistrate Judge's Recommendation and has made a *de novo* determination in accord with the Magistrate Judge's Recommendation. The Court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that the Dismissal Motion, (ECF No. 13), and Confirmation Motion, (ECF No. 15), are GRANTED IN PART AND DENIED IN PART as follows: (1) Defendant's Rule 12(b)(1) request to dismiss this lawsuit as moot is DENIED; (2) Plaintiff's request to confirm the Arbitration Award is GRANTED insofar as Defendant failed to timely reinstate and repay Mr. Thorpe; (3) Plaintiff's request to confirm the Arbitration Award is DENIED insofar as it seeks a finding that Defendant's 2018 discipline

of Mr. Thorpe contravened the Arbitration Award, as, under the circumstances of this case, that issue belongs before an arbitrator; and (4) Plaintiff is AWARDDED reasonable attorney's fees attributable to its litigation efforts through May 1, 2018, as established pursuant to procedures provided under Federal Rule of Civil Procedure 54(d)(2).

A Judgment dismissing this action will be entered contemporaneously with this Order.

This, the 9<sup>th</sup> day of October 2019.

/s/ Loretta C. Biggs  
United States District Judge